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SUBJECT: INPUT FOR 2005 TIP REPORT - VIETNAM

REFS: A. 04 STATE 273089; B. HANOI 207; C. 03 HANOI 3232;

[D](#). 04 HANOI 2921; [E](#). 04 HANOI 1724; [F](#). 04 HANOI 3071; [G](#). 04 HANOI 1188; [H](#). 04 HANOI 3021; [I](#). 04 HANOI 2499

[1](#). Mission Vietnam's response to the TIP questions in ref A, paragraphs 18-21 follows, following the alphabetical checklist format.

[2](#). OVERVIEW OF VIETNAM'S ACTIVITIES TO ELIMINATE TIP

[A](#). Characterization of trafficking in Vietnam:

Vietnam is a country of origin for trafficked women and children; the highest percentage of victims are undereducated rural women between 18 and 40 years of age. Exact (or even rough) numbers are very hard to come by; however, government and NGO sources agree that the number is in the "thousands" per year. In press reports, Vietnamese police spokesmen have said that 50,000 Vietnamese women have been sold into prostitution in the past decade, but the source of this figure is unknown. Vietnam now has a dedicated crime statistics office, but it only opened in August 2003. That office tracks data only on arrests, prosecutions and convictions of traffickers and therefore will not be a source of data on the total number of trafficking victims in Vietnam. Mission Vietnam recommended in January 2005 that a Vietnamese NGO receive USG funding to conduct a project to improve the baseline TIP data available in Vietnam (Ref B).

Trafficking occurs within Vietnam's borders, as well as from Vietnam to other countries.

[B](#). Source and destination of trafficking victims:

Vietnamese trafficking victims come from almost all provinces and cities in Vietnam. The two main destinations for Vietnamese trafficking victims are China and Cambodia; in general, most northern and central trafficking victims are trafficked to China, while victims in the south are trafficked to Cambodia. The highest concentration of victims trafficked north came from Thanh Hoa Province, south of Hanoi. This province has traditionally been the source of migrant populations in northern Vietnam. The Cambodian border provinces of An Giang and Tay Ninh have a relatively high number of victims trafficked to Cambodia.

A small number of women from Ho Chi Minh City and the Mekong Delta who married men from Taiwan are forced into prostitution or domestic servitude after their arrival in Taiwan each year. Since 1995, as many as 85,000 Vietnamese women have gone to Taiwan as brides. Vietnamese and Taiwan estimates of the number who have encountered difficulties, including but not limited to trafficking, range from five to ten percent. The number of actual trafficking victims, as differentiated from women who found themselves in unhappy marriages, is estimated by Taiwan and Vietnam authorities as between one and two hundred per year (Ref C).

Cambodia and China are the destinations for the vast majority of Vietnamese trafficking victims. Official figures acknowledge that 500 Vietnamese women and children are trafficked annually to Cambodia to work as prostitutes or slaves, although this number is universally considered to be lower than the actual figure. The Ministry of Public Security (MPS) notes that Vietnamese women have also been trafficked to Macao, Hong Kong and Malaysia for prostitution, although in smaller numbers.

[C](#). Changes in direction or extent:

Because Vietnam has only recently begun collecting data on trafficking, and so it is not possible accurately to evaluate changes in the direction or extent of trafficking at this time. However, there is at present no credible indication of any change in direction or extent.

[D](#). Reports or surveys planned or underway:

In early 2004, the United Nations Children's Fund (UNICEF)

and MPS released a survey of over 1,700 trafficking cases from 17 cities and provinces in Vietnam to determine the nature and extent of the problem. This survey covers only confirmed cases of trafficking. The report states in its introduction, "we are aware that the figure is very low compared to reality." Other NGOs have expressed interest in doing research on trafficking in Vietnam and publishing their results, and the Mission has recommended that the USG fund such a study to create a baseline to assist in the planning and evaluation of other TIP projects.

E. Conditions for victims trafficked into Vietnam:

Vietnam is not known to be a destination point for trafficked victims.

F. Targets and methods of traffickers:

The primary population targeted by traffickers in Vietnam is unmarried women from poor and rural areas. More than 90 percent of trafficking victims have less than a high school education, and 92 percent reported their occupations as either unemployed or farmer. There has been no systematic analysis of who the traffickers are, but in Mission interviews with trafficking victims (and their relatives and friends), as well as numerous press reports, traffickers have been residents or former residents of the trafficking victims' provinces or communities. In some cases, the traffickers are traders or businesspeople, but in approximately half of the cases, the traffickers were former trafficking victims themselves. The primary tactic of traffickers is to offer a so-called "easy" job as a trader, waitress or domestic helper in either China or Cambodia. In many (at least 25 percent, according to the UNICEF study) cases of victims being trafficked to China, the victims are told they are going to China to marry a wealthy man who cannot find a suitable Chinese wife. Victims are generally moved across the Chinese and Cambodian borders without documents. In more than 80 percent of surveyed cases, victims crossed the border away from legal crossing gates. The MPS admits that Vietnam's long land borders with China and Cambodia are extremely porous. In the relatively small number of cases involving victims trafficked to more distant destinations such as Hong Kong, Taiwan or Malaysia, MPS representatives stated that traffickers disguise victims as legitimate tourists or workers under a labor export program.

Vietnamese authorities, in cooperation with other third country law enforcement officials, have documented cases of trafficking in Vietnamese babies for international adoption, especially in the area of directed adoption, involving payments to parents in exchange for releasing their babies for adoption. In addition to this, small children and infants are reportedly sometimes kidnapped and sold to traffickers in China. There were no confirmed reports of this in 2004, however.

G. Political will to combat TIP:

There is political will at the highest levels of government to combat trafficking in persons. In July 2004, Prime Minister Phan Van Khai published the Decision of the Government on the Approval of the National Program of Action Against Trafficking in Women and Children from 2004-2010 (ref D). The plan addresses the major elements of prevention, prosecution and protection and identifies both the deficiencies in Vietnam's previous approach and the challenges and constraints facing the GVN as it wrestles with the trafficking problem. Importantly, the plan assigns specific roles to specific agencies under the overall direction of MPS, thus eliminating some of the confusion regarding overlapping jurisdictions. The GVN is also committed to implementing its commitments under the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime (aka the Bali Process) and the Coordinated Mekong Ministerial Initiative on Trafficking (aka COMMIT) and is moving with deliberate speed towards concluding a bilateral MOU on trafficking in persons with Cambodia, Thailand and China. The United Nations assesses the GVN's commitment to enforcement of TIP laws (and the proportionality of penalties) as strong. To date, there have not been any government officials directly linked to TIP.

The GVN does not have extensive resources, but it has recently focused more of its economic development efforts on rural and mountainous communities in part to change the conditions of poverty that contribute to the persistence of trafficking. On the prosecution side, it has created a separate office in MPS to focus on trafficking. Local communities, provincial-level Women's Unions and provincial Departments of Labor, Invalids and Social Affairs are charged with -- and have been generally active in -- facilitating the reentry and rehabilitation of trafficked victims.

IH. Government complicity in trafficking:

There were no cases in 2004 that would lead to the conclusion that governmental authorities, forces or individual members facilitate or condone trafficking in persons. However, the GVN has a persistent problem with corruption within its ranks, and that problem is particularly severe among street-level police and border agents. There may have been cases in 2004 of officials prosecuted for their involvement in trafficking, but they were not publicized. Statistics on criminal prosecution of traffickers are not disaggregated by profession.

II. GVN's ability to address the problem:

The limitations on the GVN's ability to address the problem come primarily from the socioeconomic conditions in Vietnam, the usually low levels of ability of the police and armed forces and the extensive land borders with China and Cambodia, the primary destination countries for Vietnamese victims of trafficking.

Vietnam is poor; CY 2004 per capita income was USD 537, and in rural and mountainous areas, the figure is much lower. Jobless women believe that China is a much richer place with significant numbers of prosperous businessmen who cannot get married in China because there is a lack of eligible women. Many in the south believe that there is money to be made in Cambodia working as the servant of a rich man or in the entertainment industry. Real economic opportunity in Vietnam is concentrated in urban areas, home to less than 20 percent of the population. For the majority of Vietnamese women, a rural, uneducated life at or below the poverty line is the best they can expect. Thus, the pool of potential trafficking victims is vast.

The socioeconomic conditions in Vietnam also affect the ability and integrity of the police and border guards as well as other public officials. Vietnam does not have the resources to train or equip these personnel extensively, and salaries are low, between twenty and forty dollars per month. These deficiencies contribute to the problems of corruption and incompetence in the Vietnamese police and public officials, especially at the local level. The GVN acknowledged this problem explicitly in the Plan of Action: "There are [inadequacies] and [limitation] in State administration over relevant facets such as business; services; labor management; entry-exit management; marriage; giving up and adoption of children involving foreigners; and, border management; the structure and organization of [the State administration's management] exposed many shortcomings failing to meet the requirements such that criminals can [take advantage of these shortcomings] for their practices."

The porous borders between Vietnam and the two main destination countries represent the third limitation on the GVN's ability to combat trafficking. Traffickers are able to evade the police easily. MPS officers admit that the long borders between Vietnam and China and between Vietnam and Cambodia offer traffickers many options for crossing the border illegally with trafficking victims. Vietnamese border authorities in the south have admitted that in remote areas, they rely on local residents informing the police in the event a stranger passes through the area heading for the border. In practice, this does not represent an effective border control strategy. However, considering the limited resources of the Border Army and the thousands of kilometers of easily crossable borders, it is difficult to implement a truly effective strategy.

IJ. Government monitoring of anti-TIP activities:

The July Government Decision on the National Program of Action Against Trafficking in Women and Children contained a frank evaluation of existing efforts to combat TIP on all fronts and offered recommendations for improvement. Monitoring and evaluation of efforts to combat TIP in Vietnam is difficult due to the fact that no data exist to describe the baseline against which anti-TIP results can be compared.

In March 2004, MPS, working with UNICEF, produced a review of the actual situation of trafficking in persons to China and Cambodia and an examination of prevention and investigation efforts. Because this study focused solely on trafficking cases that had been brought officially into Vietnam's criminal justice system, it greatly underreported the total number and extent of cases.

The GVN does not have a formal mechanism for sharing TIP monitoring and evaluation information. It is available upon request on a case-by-case basis.

IK. Legalization/decriminalization of prostitution:

Prostitution is subject to penalties in Vietnam. Brothel

owners, procurers, prostitutes and customers are all subject to arrest. Brothel owners and procurers face jail time under the Penal Code and prostitutes and customers are usually given "administrative punishment," imposed by the police without the involvement of prosecutors or courts. Prostitutes are routinely sent to rehabilitation centers, while customers face fines. Customers who are found with prostitutes under the age of 18 are subject to prosecution and jail time.

13. PREVENTION:

1A. GVN acknowledgement of the problem:

The GVN acknowledges the problem of trafficking publicly and privately at all levels of government and with domestic and international audiences. The Plan of Action, signed by the Prime Minister, states (verbatim) in its opening paragraph: "The situation of trafficking, especially trafficking of women and children, to other countries has become more and more complicated, serious and tended to increase. According to informal statistics, there have been tens of thousands of Vietnamese women and children trafficked up to now, mainly to China, Cambodia, and some other countries. Trafficked women and children end up to prostitution or working in worst conditions and suffer discrimination. Trafficking of women and children has become an urgent, topical and pressing problem badly affecting society, customs, tradition, social morals, and laws and sabotaging and taking away the happiness of many families, posing threats upon future generations and increasing the risks of transmitting HIV/AIDS, with negative implications for national security and social order."

1B. Agencies involved in anti-TIP efforts:

The lead agency is the Ministry of Public Security, which has an office dedicated to trafficking enforcement as well as the responsibility for coordinating interagency efforts. The other agencies involved are the Ministry of Foreign Affairs (MFA), the Ministry of Labor, Invalids and Social Affairs (MOLISA), the Border Army, the Women's and Youth Unions, the Committee on Protection of Families and Children (CPFC), the Ministry of Justice (MOJ) and the People's Supreme Court.

1C. Government-run anti-TIP information or education campaigns:

The GVN has not mounted separate, specific anti-TIP campaigns, but the issue of trafficking has been raised in combination with other information and education programs. For example, Vietnam Television occasionally addresses the issue in a popular television program about home economy, featuring returnees discussing their trafficking experiences and advising others on how to avoid being trafficked.

Trafficking in persons is normally included with other "anti-social evil programs" run by MOLISA's Department of Social Evils Prevention (DSEP). (Note: The GVN defines "social evils" as drug abuse, HIV/AIDS, prostitution and trafficking in persons. End note.) For example, the GVN's official anti-prostitution program has been underway since 2001. This program includes trafficking information and education campaigns. This program, according to DSEP, targets victims, high-risk groups and the entire society. In addition to this program, the Plan of Action tasks the Women's Union with education of the community on prevention of TIP. In general, government-run anti-trafficking programs in Vietnam target potential trafficking victims rather than the demand for trafficking. Separate propaganda campaigns target consumers of prostitution.

In addition, in the summer of 2004 UNICEF, the governments of Vietnam and China, the Vietnam Women's Union and the Women's Union of China began a joint mass communications effort to educate people and local government leaders on trafficking, tactics used by traffickers, signs to detect persons being trafficked and related issues. The year-long campaign also addresses the protection of victims, including health checks for repatriated victims, training on how to counsel trafficked persons and workshops on local laws regarding sexual exploitation and the trafficking of women and children. UNICEF's goals for the campaign are to reduce cross border trafficking and to create a social movement against trafficking.

The campaign will take place in Vietnam and China simultaneously, with the same materials (in different languages) used in both countries. In Vietnam, the campaign is concentrated in Quang Ninh, Lang Son, and Lai Chau Provinces in the north and An Giang and Dong Thap Provinces in the south. UNICEF estimates that the campaign will reach approximately 4,000 Vietnamese people directly and millions more indirectly, through television, radio and newspaper announcements (ref E).

1D. GVN support of other programs to prevent trafficking:

The GVN supports several domestically funded and foreign funded anti-trafficking programs.

On February 12, 2004, the GVN approved its 2004 - 2010 National Program of Action on Protection for Children in Special Circumstances. The program has four objectives targeted at:

- providing for homeless children;
- ending the worst forms of child labor;
- preventing women and children from being trafficked; and
- capacity building and advocacy.

In addition to this program, the GVN also supports various ongoing trafficking projects throughout Vietnam, including international programs, such as following ILO projects:

- ILO - Japan Asian Regional Program for Extension of Employment Opportunities for Women, Capacity Building, Credit Schemes and Income Generation;
- National Program for the Prevention and Elimination of Child Labor in Vietnam; and
- The Mekong Sub-regional Project to Combat Trafficking in Women and Children.

The main GVN anti-poverty program, Project 135, is also specifically designed to improve conditions for "people in difficult circumstances." The GVN uses the same language to describe the most populations most vulnerable to trafficking, especially in the north.

Other NGOs and international organizations such as the International Organization for Migration (IOM), Action Aid, Save the Children UK, United Nations Office of Drugs and Crime (UNODC) and UNICEF are assisting in combating trafficking. These projects all contain a GVN component, mostly in the form of in-kind contributions.

1E. GVN ability to support prevention programs:

Though prevention in the form of socioeconomic development for the high-poverty areas where many trafficking victims originate is the GVN's top priority for addressing the issue of trafficking in persons, the magnitude of the task of improving the standard of living for all those living in rural poverty exceeds the GVN's resources. The GVN is dependent on overseas assistance to meet many of its developmental goals, which themselves are insufficient to eliminate the potential pool of victims.

1F. Relationship between government officials, NGOs, other relevant organizations and other elements of civil society on the trafficking issue:

The GVN's ability to operate in an interagency context is limited, but has improved with the issuance of the Prime Minister's decision on the National Plan of Action. Communication technology is antiquated and there is little tradition of interagency cooperation. The GVN works well with relevant organizations on the TIP issue, especially those connected to the UN such as UNICEF and UNODC. MPS has played an active role in several UNICEF and UNODC trafficking projects, going so far as to assign one senior officer full time in the UNODC office as the national project coordinator. This greatly improves UNODC's ability to work with MPS.

On the trafficking issue, civil society representation comes from the Women's Union, a mass organization under the Vietnam Fatherland Front for women's issues in Vietnam. The Women's Union has branches and offices throughout the country down to the commune level. Relations between the Women's Union and other agencies on the subject of trafficking are excellent.

1G. GVN border control adequacy and monitoring of emigration/immigration patterns for evidence of TIP:

Representatives from the General Criminal Division of MPS have admitted that, along Vietnam's 5,000 km of land borders, there are "countless forest paths where people cross the border unofficially." Sophisticated monitoring of immigration and emigration patterns for evidence of trafficking would exceed the GVN's technical and human resource abilities. Vietnam began collecting statistics on trafficking last year; building and exploiting an effective database are yet to come.

1H. Existence of trafficking and corruption task forces:

MPS has overall coordination authority over a group of ministries charged with combating trafficking in persons. The GVN does not have a broad-based TIP task force, except for the TIP office in MPS that is focused solely on enforcement. There is no interagency task force on

corruption in Vietnam, although there is a State Inspectorate as well as a Ministry of Internal Affairs and an Internal Affairs Commission of the Communist Party of Vietnam (CPV), all of which have investigatory and supervisory powers.

I. GVN participation in international anti-TIP efforts:

The GVN's most significant international effort to combat trafficking in persons is through its participation in the Bali Process connected with the Bali Regional Ministerial Conferences on People Smuggling, Trafficking in Persons and Related Transnational Crime held in February 2002 and April 2003. In addition to the commitments from the Bali Process, Vietnam intends to participate in the Asia Regional Cooperation to Prevent People Trafficking Project funded by AusAid when that project expands beyond Thailand, Burma, Laos and Cambodia. According to the ASEAN Secretariat, the purpose of that project is to strengthen regional cooperation and legal policy frameworks through identified ASEAN Secretariat plus China (Yunnan Province) national points of contact and build national and regional capacity to prevent trafficking in women and children.

Vietnam also played a role in the COMMIT process, the first inter-country, inter-ministerial forum for forging concrete alliances and arrangements to combat human trafficking in the region. Vietnam attended and contributed to the COMMIT Senior Officials Meetings in July and October of 2004 and attended the Ministerial level meeting in Rangoon in October 2004. Vietnam signed on to the COMMIT MOU which pledges practical cooperation in combating TIP through the creation of a network for repatriation of victims, building similar networks between specialist police units, and improving extradition procedures. Vietnam is scheduled to host the next meeting of COMMIT countries in the first half of 2005 (Ref F).

J. GVN plan of action for TIP:

The GVN's National Plan of Action for Combating Trafficking was released in July 2004. MPS, MOJ, MOLISA, MFA, the CPFC, the Supreme People's Court and Supreme People's Procuracy and the Vietnam Women's and Youth Unions were involved in the Plan's development.

NGOs were not formally consulted in the development of the National Plan of Action, but the GVN intends to rely heavily on assistance from the ILO, UNODC and UNICEF to implement the plan. The plan was distributed publicly through the GVN's regular channels for the publication of official documents, assisted by the NGO community.

K. Entity or person responsible for developing anti-trafficking programs within the government:

According to the Plan of Action and the instructions from the Office of the Prime Minister, MPS is the point of contact for anti-trafficking activities among the Ministry of Health, MOLISA, MFA, MOJ, Border Army, the Women's Union and other mass organizations.

MPS is responsible for reporting to the Office of the Prime Minister on the issue of trafficking in women and children after collecting and analyzing all information from other concerned ministries and agencies. In practice, the Criminal Police Department within the General Department of People's Police (part of MPS) handles issues pertaining to trafficking in persons.

4. INVESTIGATION AND PROSECUTION OF TRAFFICKERS:

A. Laws specifically prohibiting trafficking in persons:
Most traffickers in Vietnam are prosecuted under the current Penal Code Articles 119 and 120, according to the Law Department of the Office of the National Assembly. Article 119 concerns trafficking in women and provides for penalties ranging from two to 20 years in prison. Article 120 concerns trafficking in children, and penalties range from three years to life in prison. Trafficking in women and children for all purposes, not just prostitution, is covered under these articles. Trafficking for the purposes of labor exploitation is covered in Vietnam under Penal Code 275 (titled "organizing and/or coercing other persons to flee abroad or to stay abroad illegally"). GVN authorities, including the MOJ, recognize that although all forms of trafficking can be prosecuted one way or another under the Vietnamese Penal Code, existing legislation in Vietnam does not comprehensively cover trafficking in persons. The GVN is engaged in a legal reform project now that is designed to correct the flaws in the current code concerning trafficking in persons and provide the legislative basis for Vietnam to accede to international protocols on trafficking in persons. According to the MPS Criminal Police Department, the GVN is currently "developing and gradually perfecting the legal system concerning the prevention, the prosecution of crimes and the violation of laws on trafficking in women and

children." Vietnamese law does not address the issue of trafficking in men for sexual purposes, and there are no indications that this is a problem in Vietnam. If it did happen, however, it would be possible to prosecute the traffickers under laws criminalizing the procurement of prostitutes, according to MOJ.

The Vietnamese Labor Code contains a section on "Vietnamese working abroad." Included in this section's articles is a stipulation that only "Vietnamese citizens who are 18 years of age in full or over, who have the ability to work, who are voluntary and satisfy all other standards and conditions in accordance with Vietnamese laws and the laws and requirements of the foreign party may work in a foreign country." The Code also includes the requirement that enterprises have a permit to send workers abroad, thus ensuring some measure of government control over the system. The Code details the rights and obligations of both workers and enterprises, including all enterprises' obligations "to manage and protect the interests of laborers during the period of working abroad under their contracts in accordance with the law of Vietnam and the law of the foreign country;" "to pay compensation for damage to the laborer caused by the breach of the contract by the enterprise;" and "to complain to the authorized State body against breaches of the laws in the field of labor export."

An updated Decree (July 2003) provides the legal mechanism to implement these provisions. This regulation requires that companies "monitor, manage, and protect the legal rights of labor during their time of working abroad" and "have cadres for the management of the labor depending upon the foreign market." The enterprises are thus required regularly to inspect overseas workplaces both before and after signing labor contracts. The information from the pre-inspection must be included in the registration of a labor export contract submitted to MOLISA. According to one labor export company, MOLISA carries out both scheduled and surprise inspections of labor export companies.

The July 2003 implementation Decree highlights the conditions for granting and revoking licenses for labor export. Vietnam now has 126 licensed labor export companies. Of these, 119 are state enterprises "owned" by a wide range of ministries and provinces, while the remaining seven are private companies. Since the implementation of this Decree in July 2004, MOLISA has been reviewing the current licenses and new applications. This process is still ongoing, and MOLISA has already denied 20 applications for new companies that did not meet necessary conditions under the Decree. MOLISA has also used its power to revoke and suspend the licenses of "irresponsible" labor export companies. This happened ten times between 2001 and 2003, and in 2004 at least ten more enterprises had their licenses revoked and 50 had their licenses suspended because of "inefficient operations." For more serious abuses of worker's rights, MOLISA coordinates with MPS to prosecute violators under criminal statutes. Notably, an interagency circular (an internal GVN regulation) was jointly issued by MOLISA and MPS on January 18, 2005 to guide prevention of and combat against violations in labor export. The Circular listed crimes that may face administrative sanction or criminal prosecution and clearly defined the responsibilities of MPS, MOLISA and police and labor agencies at the local level.

At a March 2004 interagency conference to review the results of a USG-funded UNODC survey of the Vietnamese anti-TIP legal framework (Ref F), the participants created a framework for action. They agreed on the need to harmonize Vietnamese law with relevant international conventions; agree on a definition of trafficking and specific criminal acts of trafficking as well as a mechanism for interagency cooperation to allow the investigation and prosecution of traffickers; establish the legal authority for the protection of witnesses and victims of trafficking; facilitate the repatriation and reintegration of victims of international trafficking and resolve problems relating to legal jeopardy for trafficking victims; promote international and regional cooperation to combat TIP; and, address the problems at the source of trafficking in persons: poverty and difficult economic circumstances. According to MOJ, as of March 2005 efforts in all of these areas are "actively ongoing" but have yet to show results.

1B. Penalties for traffickers:

The revised Penal Code of Vietnam states in Article 119 that those who commit acts of "trading" women for the purpose of prostitution shall be sentenced to between five and twenty years of imprisonment. Article 120 provides sentences of between ten and twenty years of imprisonment for those who commit the crime of trading in, fraudulently exchanging or appropriating children for use for prostitution purposes. Traffickers of people for labor exploitation are prosecuted in Vietnam under Penal Code section 275 and face penalties

of between two and twenty years in prison depending on the severity of the crime.

1C. Penalties for rape or forcible sexual assault:

Penalties for rape or forcible sexual assault range from six months in prison to capital punishment. Capital punishment is reserved for cases in which: the victim is killed, seriously disabled or infected with HIV/AIDS; the perpetrator is a participant in a gang rape; or the perpetrator has raped more than one person. With the exception of the potential of the death penalty or life in prison in the circumstances mentioned above, the penalties for rape/sexual assault and for trafficking in persons are similar.

1D. Prosecution statistics:

The GVN's Department of Crime Statistics was established in the Supreme People's Procuracy in August 2003. It provided its first set of statistics to the USG in late February

12004. The following is the number of cases against traffickers in women and children (Articles 119 and 120 of the Penal Code) in CY 2004. This data does not include cases involving those guilty of trafficking in men for labor exploitation.

Indicted: 113 suspects in 162 cases;
Prosecuted: 94 suspects in 142 cases;
Convicted: 110 suspects in 175 cases.

1E. Information on traffickers and beneficiaries of trafficking:

Although the GVN refers occasionally to the involvement of organized crime in trafficking cases, there is no evidence to date to indicate that international organized criminal syndicates are involved in trafficking in Vietnam. Most of the traffickers caught and prosecuted in Vietnam are small-scale traffickers operating close to their home villages as individuals or in small groups. In many cases, the traffickers are either former trafficking victims themselves, or relatives of the trafficking victims. In a review of the cases of 428 people arrested for trafficking in the north of Vietnam from 1999-2002, the MPS General Criminal Department determined that 80 percent of the perpetrators were unemployed, farmers or itinerant vendors. There have been several cases where "matchmaking" agencies in Ho Chi Minh City have been accused of defrauding women in the process of arranging marriages between men from Taiwan or South Korea and Vietnamese women, but there is so far no indication that trafficking is involved in these cases.

The proceeds of trafficking do not appear to concentrate in any particular place or gravitate towards any particular group in Vietnam, but instead are shared among the members of small free-lance ad-hoc groups of traffickers, according to UNODC.

1F. GVN investigation of trafficking cases:

The GVN actively investigates trafficking cases, and prosecutes and convicts traffickers. In general, the GVN does not use active investigative techniques in any criminal investigations, including narcotics cases. According to the DEA, the Vietnamese police do not have the authority or the capability to use wiretaps effectively in criminal cases. Legally, they can conduct undercover operations, but MPS states that it lacks implementing regulations spelling out exactly what is legal and illegal in undercover operations, and so does not yet conduct them. Vietnamese law does not permit granting immunity from prosecution in exchange for information, and American-style plea bargains do not happen. In criminal cases, the judge does have the discretion to mitigate sentencing if defendants have been cooperative throughout the investigation and trial process, but a pre-arranged bargain is not legal.

A project aimed at improving and refining the legislation covering tools available to investigate and prosecute cases is currently underway under the auspices of UNODC. MOJ is the implementing agency for this project.

1G. Training for GVN officials in TIP issues:

At the moment, the GVN does not provide special training in recognizing, investigating or prosecuting instances of trafficking. However, in 2004 MPS cooperated with UNODC on a U.S.-funded project that to train 121 Border Army officers, police officers, judges, prosecutors and Border Army and Police Academy instructors in recognizing and investigating trafficking at high-risk border crossing points in Quang Ninh and Tay Ninh Provinces. According to UNODC post-training evaluations, "all participants now have a basic knowledge of human trafficking, and some have an in-depth knowledge."

IH. International cooperation in TIP enforcement:

The GVN cooperates with other governments in the investigation and prosecution of trafficking cases, but not often. According to MPS, this has happened "less than ten times." However, one case in April 2003 received a great deal of press attention when Vietnam-Cambodia cooperation resulted in the elimination of "several" trafficking rings and long prison sentences handed down to some leaders. MPS officials also cited two instances in which China and Vietnam jointly (and successfully) investigated trafficking cases, both in 2001. MFA officials have noted that, with the assistance of UNICEF, Chinese and Vietnamese border authorities meet "regularly" to exchange information, and to "work out plans to coordinate actions to prevent cross-border smuggling of women and children." In the context of a USG-funded TIP project implemented by the Asia Foundation and the Vietnam Women's Union, Vietnam and Cambodian government representatives met in November 2004 near the Vietnam-Cambodia border to discuss techniques for combating trafficking between Vietnam and Cambodia.

II. GVN extradition of traffickers:

Vietnam can and does extradite foreigners who are charged with trafficking in other countries, even in the absence of extradition treaties, but only on a case-by-case basis. According to Interpol-Vietnam, statistics for extradition cases in 2004 and other years are unavailable, but the number of trafficking-related extraditions in 2004 was "less than ten."

MOJ officials noted, however, that Vietnam does not extradite its own citizens anywhere for any purpose, in accordance with the 1998 Citizenship Law.

IJ. Evidence of GVN tolerance of or involvement in TIP:

Vietnam suffers from endemic corruption, particularly at the working levels of law enforcement. While cases of trafficking-related corruption appear rarely if at all in the press, NGOs and international organizations believe that they exist.

The most recent press account of possible official involvement in corruption appeared in the "Great Solidarity" newspaper (published by the Vietnam Fatherland Front) in February 2004. In that case, one trafficking victim was a cousin of the police commander for the commune involved. The newspaper quoted a Women's Union official who noted that in cases where a family relationship exists between the authorities and the traffickers, the law enforcement system breaks down. The article stated that, at the commune level, where most people have at least some distant family relationship with each other, the fact that many traffickers are people who return to their hometowns from overseas makes law enforcement "more difficult." MPS contacts note that the professionalism and capabilities of law enforcement in rural areas is usually lower than at the central level.

Post has no information indicating the existence of trafficking-related corruption at the central level of the GVN.

IK. Steps to end official participation in TIP:

MPS officials stated that a combination of internal administrative punishments and legal prosecution would be used to combat any official corruption or participation in trafficking. To date, the GVN has not confirmed any cases of corruption directly related to trafficking, but MPS officials noted that there may have been cases in which traffickers also had some official capacity, especially at the local level. Those cases would be contained in the aggregate indictment, prosecution and arrest statistics under Articles 119 and 120. The GVN does not analyze that data to determine if any of the individuals involved are public officials.

IL. Vietnam has in some cases been a destination for international child sex tourism. Foreign law enforcement sources state that although its investigative capacity is limited, the GVN is "extremely responsive" to requests for cooperation in cases where foreign pedophiles are wanted for child sex tourism crimes. In late 2004 and early 2005 the GVN (at the request of the Australian Government) deported two Australian citizens for child sex crimes in Vietnam. In 2004, Vietnam cooperated closely with U.S. authorities in returning a wanted U.S. citizen pedophile back to the United States for prosecution. Under Article 6 of the Vietnamese Penal Code, Vietnamese citizens who commit crimes outside of Vietnam are still subject to prosecution under Vietnamese law. This also applies to sexual crimes against children, though Vietnamese are not generally considered to be significantly represented in the ranks of international child sex tourists.

1M. GVN ratification of international instruments:

ILO Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labor: Signed and ratified. Date of ratification: December 19, 2000.

ILO Conventions 29 and 105 on forced or compulsory labor: Not yet signed.

The Optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution, and child pornography: Signed and ratified. Date of ratification: December 20, 2001.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime: Not yet signed, but according to UNODC and MOJ, Vietnam hopes to ratify the UN Convention against Transnational Organized Crime in 2005 and sign the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children simultaneously.

15. PROTECTION AND ASSISTANCE TO VICTIMS:

1A. GVN assistance to victims:

In accordance with the Prime Minister's directive number 776/TTg, MOLISA has the responsibility for caring for victims of trafficking. In practice, MOLISA interprets this as the responsibility to "coordinate with relevant agencies in providing guidance and directions to localities to conduct job training and generation activities and to provide medical treatment to victims of trafficking." The effect of this interpretation is to shift primary responsibility (financial and operational) for actually caring for victims of trafficking back to the provincial and local level. At the local level, it is usually the Women's Union representatives who care for returnees. In particularly hard-hit communes in provinces such as An Giang, Lang Son and Quang Ninh, local People's Committees and Women's Unions work together to provide services and care to returnees. The level of this care, in particular medical care, depends on the political will and the financial resources of the commune. Medical care is generally rudimentary in the communities from which trafficking victims originate, and so many victims likely do not receive adequate care.

1B. GVN funding of NGOs providing services to victims:

Local governments often work with NGOs to provide support to returned trafficking victims in the form of vocational training, farmland or capital for microcredit loans. In addition, nearly all international organization and NGO anti-trafficking programs have a GVN component, usually in the form of an in-kind contribution such as office space, personnel or services.

1C. Treatment of victims:

Trafficking victims in Vietnam are not detained, arrested or placed in protective custody against their will. The GVN routinely sends prostitutes to "rehabilitation centers" where they receive medical care and vocational training during a period of incarceration, but trafficking victims are not sent to these centers unless they are caught engaging in prostitution after their return to Vietnam. MOLISA officials noted that trafficking victims have the opportunity to enter a prostitute rehabilitation center voluntarily to take advantage of the medical care and vocational training, but that this is very rare.

Victims of trafficking for prostitution within Vietnam do run the risk of being sent to rehabilitation centers. However, police and local government officials in Danang and Ho Chi Minh City (and other provinces in Vietnam) have told Embassy officers that the most likely outcome for a trafficking victim caught up in an anti-prostitution sweep would be to be sent back to her home village or district to receive care there. The rehabilitation centers are usually reserved for women who have been arrested multiple times for prostitution or for those who also need help with drug addiction (ref G).

1D. Rights of victims and treatment of returnees continued:

Post has no information indicating that returned trafficking victims in Vietnam are treated as criminals. In all official meetings, in conferences, in seminars, and in the press, returnees are referred to as "victims." The Director of MOJ's Legal Aid Agency has advocated changing the law explicitly to acknowledge the victim status of returnees, but so far this has not occurred.

1E. Victim participation in investigations or suits against traffickers:

According to the MOJ, trafficking victims in Vietnam are encouraged to assist in the investigation and prosecution process. They are also encouraged to file suit against the traffickers. Article 31 of a new Criminal Procedures Code (see section F below) explicitly states the right of any Vietnamese citizen to make complaints or statements during criminal proceedings.

Depending on the court ruling, if a ruling is against an employer (for example, the employer is sentenced to imprisonment), then compensation will be awarded to the victim by the court, including back pay. Article 29 of the new Criminal Procedures Code establishes the right to compensation and the restoration of reputation and other benefits for the victims of injustice, including trafficking.

Victims may leave Vietnam in accordance with emigration regulations.

1F. Protection of victims and witnesses:

On November 26, 2003, the National Assembly passed the Revised Criminal Procedures Code, which took effect on July 1, 2004. Point 3, Article 55 under the Code states: "the witness has the right to request the government to protect his life, health, reputation, dignity, assets and other legitimate rights and interests when taking part in the prosecutorial process."

According to Article 7 of the Code, "citizens have the rights to have their life, health, reputation, dignity and assets protected by law. Any acts ruining life, health, reputation, dignity or assets will be dealt with by law. If the life, health, reputation, dignity or assets of the victim, witness, or anyone else taking part in the prosecutorial process, or their loved ones, are threatened, competent authorities shall apply necessary measures for protection as stipulated by the law." According to the National Assembly's Law Department, in practice security and police authorities have provided protection for victims and witnesses, in most cases at their request. Also according to the Law Department, in some exceptional cases, the GVN automatically offers to provide protection, depending on the seriousness and the importance of the case.

The GVN does not run or fund shelters for victims or witnesses.

1G. GVN specialized training for officials dealing with trafficking, especially related to protection of victims:

The GVN does not in general provide specialized training but has sent labor attaches to nine of its embassies overseas located in countries that have the largest number of Vietnamese workers (ref H). These attaches are responsible for working with the local authorities, the employers of Vietnamese workers and other Embassy staff members to monitor labor conditions and intervene on behalf of Vietnamese workers if necessary. These officers have access to a fund that can be used to help Vietnamese workers who find themselves in a difficult situation (such as an abusive workplace, or a bankrupt employer) to go home. This provides an important protection for workers against being trafficked for labor. In addition, MFA officers assigned to Taiwan receive special briefings on working with Vietnamese women who are married to men from Taiwan, and are instructed to "work with Taiwan authorities to give a helping hand to the victims, to detect and take timely action against traffickers in women under the cloak of marriage brokers," according to MFA Consular Director General Dinh.

Also see Paragraph 4, subsection G regarding the USG funded anti-TIP training program for GVN officials.

1H. GVN assistance to repatriated nationals who are victims of trafficking:

In accordance with the Prime Minister's directive number 776/TTg, MOLISA has the responsibility for caring for victims of trafficking. In practice, MOLISA interprets this as the responsibility to "coordinate with relevant agencies in providing guidance and directions to localities to conduct job training and generation activities and to provide medical treatment to victims of trafficking." The effect of this interpretation is to shift primary responsibility (financial and operational) for actually caring for victims of trafficking back to the provincial and local level. At the local level, it is usually the Women's Union representatives that care for returnees. In particularly hard-hit communes in provinces such as An Giang, Lang Son and Quang Ninh, local People's Committees

and Women's Unions work together to provide services and care to returnees. The level of this care, in particular medical care, depends on the financial resources of the commune. Medical care is generally rudimentary in the communities from which trafficking victims originate, and so many victims do not get care.

In 2004, the GVN created and funded a new account for the protection and welfare of overseas workers, allowing the GVN to assist overseas workers in distress without requiring workers to rely on either the labor export companies responsible for sending them overseas or the employers in the host country. This also allowed the GVN for the first time to use public funds to repatriate workers whose employment situation outside of Vietnam deteriorates to the point that they need assistance to return to Vietnam (ref I).

I. NGOs working with trafficking victims in Vietnam and cooperation with the GVN:

Major ongoing NGO projects in Vietnam include:

-- Oxfam Quebec, Save the Children UK, and Save the Children Sweden: In the northeast (Bac Giang, Quang Ninh, and Lang Son provinces), this project is aimed at awareness-raising through the distribution of leaflets and local economic development through the provision of training and support for women starting their own businesses. Counterpart agency: the Women's Union.

-- the ILO: The ILO's project is part of a subregional project including all of the Mekong subregion countries. It is located in Quang Ninh and Thanh Hoa provinces as well as in Ho Chi Minh City. ILO focuses on: advocacy and awareness-raising; capacity building in MOLISA, Border Guards, MPS and the Women's Union; and direct assistance. Counterpart agencies are MOLISA, MPS and the Women's Union.

-- IOM: IOM plays a vital leadership role among governmental and non-governmental organizations combating TIP in Vietnam. In its direct project activities, IOM is focused on protection of returnees. Also a regional Mekong project, IOM has opened a shelter for returned trafficked children in Ho Chi Minh City and provides assistance to trafficking victims who want to return to Vietnam. IOM received USG funding in 2004 to expand the shelter project to the northeastern province of Quang Ninh. Counterpart agencies: MOLISA and the Women's Union.

-- UNICEF has a Vietnam component to a subregional antitrafficking project, which focuses on protection of victims and institutional capacity building, as well as legal reform. UNICEF's project is unique in that it incorporates children themselves in project planning. Counterparts: MPS and MOLISA.

-- A UNODC project, with USG funding, focuses on capacity building among law enforcement agencies, legal reform leading to accession to UN protocols on trafficking, and international law-enforcement cooperation. Counterpart: MPS.

-- The Asia Foundation, also funded by the USG, focuses on prevention of trafficking in Quang Ninh and An Giang Provinces. TAF works with Vietnamese NGOs and the Women's Union to improve conditions and opportunities for women in the provinces. Activities include training of women political candidates and business managers, and provision of microcredit loans for women starting small businesses. Counterpart: the Women's Union.

-- the UN Interagency Project (UNIAP) in Bangkok administers a USD three million (total project cost) project against trafficking in women and children in the Mekong Sub-region, including Vietnam, which attempts to collect data and to improve internal coordination among GVN agencies. The UNIAP is currently on hiatus in Vietnam pending the GVN's approval of its "second phase" projects. Counterpart: MOLISA.

These organizations altogether are spending less than USD five million dollars annually in Vietnam. Most projects are small-scale and focused mainly on raising awareness of trafficking in at-risk communities, with some additional efforts to address "root causes" and protect returning victims of trafficking. The major exception is the UNODC project. In all cases, the projects have a GVN partner organization and draw heavily on donated staff from the Women's Union, MOLISA and local Departments of Labor, Invalids, and Social Affairs and in some cases MPS. The GVN's contribution to these projects is nearly always in-kind, in the form of office space, personnel, equipment and supplies if available. The international community in general, and the NGO and International Organization community in particular, is unanimous in its positive

assessment of GVN cooperation. UN agencies with experience working with the GVN in several different sectors state that interaction on the issue of trafficking is the most productive and effective of all of their projects. Even on the issue of law enforcement cooperation, an area where the GVN is infamously bad, has a bright spot in the area of TIP: the Ministry of Public Security genuinely cooperated with the Australian Federal Police in 2004 on two cases involving Australian pedophiles and with U.S. law enforcement officers on one case, resulting in the deportation of three individuals: two to Australia and one to the United States.

POC AND TIME SPENT ON REPORT:

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MARINE